

proposals.

4. Tribal Issues

1165. In view of the relatively low level of telecommunications deployment, and distinct connectivity challenges on Tribal lands, we reaffirm our commitment to address Tribal needs and establish a separate budget to provide ongoing USF support for mobility in such areas.²²⁶⁷ The Order we adopt today establishes an annual budget of up to \$100 million to provide ongoing support for mobile broadband services to qualifying Tribal lands. In addition, we note that the Connect America Fund will separately support broadband for homes, businesses, and community anchor institutions, including on Tribal lands.

1166. Consistent with the approach we adopt today for the general and Tribal Mobility Fund Phase I, we propose to apply the same Tribal engagement obligation and a 25 percent bidding credit preference for Tribally-owned or controlled providers in Phase II. We seek comment on this approach. For example, to the extent we adopt a cost model, discussed *infra*, are there particular measures we should take to help ensure that the needs of Tribes are met? What modifications might be needed to the proposed Tribal engagement obligations? Are there other alternatives we should consider?

1167. In addition, to afford Tribes an increased opportunity to participate at auction, in recognition of their interest in self-government and self-provisioning on their own lands, we propose to permit a Tribally-owned or controlled entity to participate at auction even if it has not yet been designated as an ETC. Consistent with the approach we adopted today for the general and Tribal Mobility Fund Phase I, we propose that a Tribally-owned or controlled entity that has an application for ETC designation pending at the relevant short form application deadline, may participate in an auction to seek support for eligible census blocks located within the geographic area defined by the boundaries of the Tribal land associated with the Tribe that owns or controls the entity that has not yet been designated as an ETC. We seek comment on this proposal.

1168. To the extent practicable, we propose to award ongoing support for mobile broadband services on Tribal lands on the same terms and conditions as we propose for the ongoing support mechanism for Phase II in non-Tribal lands.²²⁶⁸ We recognize, however, that there are several aspects of the challenges facing Tribal lands for which a more tailored approach may be appropriate, as evidenced in the record developed to date in this proceeding. Toward that end, we propose to apply in Phase II for Tribal lands the specific provisions adopted in the context of the Tribal Mobility Fund Phase I.²²⁶⁹ Are there any differences in our proposals to award ongoing support that would justify an alternative approach here? For example, to the extent that providers in Alaska may be dependent on satellite backhaul for middle mile, should we modify our Mobility Fund II performance obligations for some limited period of time, similar to what we adopt more generally as a performance obligation for ETCs?²²⁷⁰ Should a similar accommodation be made for areas in which there is no affordable fiber-based terrestrial backhaul capability? If so, how should the Commission define affordability for these purposes? Further, in areas with only satellite backhaul, should we require funded deployments to be able to support continued local connectivity in case of failure in the satellite backhaul? How would such a requirement be structured to ensure continued public safety access?

1169. We seek comment on GCI's proposal that new mobile deployments be given some

²²⁶⁷ See *supra* note 197.

²²⁶⁸ See discussion *supra* Section XVII.I.

²²⁶⁹ See discussion *supra* at paras. 484-491.

²²⁷⁰ See *supra* para. 101.

priority in Phase II.²²⁷¹ Commenters supporting such an approach should explain how such a priority mechanism could work, which deployments would be eligible for prioritization, and any other implementation issues. Similarly, we seek comment on GCI's proposal that priority be given to areas that do not have access to the National Highway System to account for the lack of roads and highways in many remote parts of Alaska.²²⁷² Are there alternative means in Phase II to account for remote areas, including those in Alaska, where roads and other infrastructure may be lacking?

1170. In addition, to afford Tribes an opportunity to identify their own priorities, we seek further comment on a possible mechanism that would allocate a specified number of "priority units" to Tribal governments. The priority units for each Tribe would be based upon a percentage of the total population in unserved blocks located within Tribal boundaries. Tribes would have the flexibility to allocate these units in whatever manner they choose. Under this mechanism, Tribes could elect to allocate all of their priority units to one geographic area that is particularly important to them (for instance, because of the presence of a community anchor institution, large number of unserved residents, etc.), or to divide the total number of priority units among multiple geographic units according to their relative priority. By giving Tribes the opportunity to allocate a substantial number of additional units to particular unserved geographic areas within the boundaries of their Tribal lands, we would allow Tribes to reduce the per-unit amount of bids covering those unserved areas, so as to increase the likelihood that these areas would receive funding through the proposed competitive bidding process.

1171. We seek further comment on this proposal for possible application in Phase II for Tribal lands. We are mindful that the record developed to date suggests that the effectiveness of this approach depends, in part, on providing a significant number of priority units for Tribes to allocate.²²⁷³ We propose that an allocation in the range of 20 to 30 percent of the population in unserved areas on the Tribal land would provide Tribes a meaningful opportunity to provide input on where support could be effectively targeted. We seek comment on this proposal. Commenters are requested to address whether this approach should apply to both the general and Tribal Mobility Fund Phase II. We also seek comment on how such priority units should be awarded in Alaska, given the unique Alaska Native government structure and the large number of Alaska Native Villages likely to be clustered in any given geographic area. Should the Commission allocate priority units proportionately, according to the relative size and/or number of unserved units of all Alaska Native Villages in any given geographic area? Would a similar approach be warranted for Hawaiian Home Lands, or are there alternative approaches that best reflect conditions in Hawaii? Alternatively, we seek comment on whether the Tribal engagement obligations adopted for Phase I are sufficient to ensure that Tribal priorities are met with respect to ongoing support under Phase II. To the extent we adopt our proposal for Tribal priority units, we seek comment on whether a Tribally-owned and controlled provider should also be eligible to receive a bidding credit within its Tribal land or if the Tribe must choose between one or the other. If we offer a bidding credit to Tribally-owned and controlled providers seeking Phase II support, would a 25 percent bidding credit, like the one we have adopted for Phase I be sufficient, or does it need to be set at a different level to achieve our objectives?

1172. We also seek comment on whether a different approach is warranted for Tribal lands in Alaska given the unique operating conditions in Alaska. We propose that carriers serving Alaska would be eligible for the same funding opportunities as carriers serving Tribal lands in the rest of that nation. Is this right approach? In the alternative, should an amount of any Tribal funding be set aside only for

²²⁷¹ See Letter from John T. Nakahata, Counsel to GCI, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90, *et al.*, at 2 (filed Oct. 23, 2011).

²²⁷² *Id.*

²²⁷³ See Smith Bagley *April 18 PN* Comments at 5-6; NPM and NCAI *April 18 PN* Comments at 3.

carriers serving Alaska to ensure some minimal level of funding representative of the need in that state? We seek comment on that proposal, the size of any Alaska-specific set aside, and the need to adjust the total Tribal component of Mobility Fund II to account for any Alaska-specific figure. We also seek comment on whether any Alaska-specific funding should be focused on middle mile connectivity, which is one of the core impediments to 3G and 4G service in Alaska. How could such a mechanism be structured to facilitate the construction of microwave and fiber-based middle mile facilities, which are lacking in portions of remote areas of Alaska.

5. Accountability and Oversight

1173. We propose to apply to Mobility Fund Phase II the same rules for accountability and oversight that will apply to all recipients of CAF support. Thus all recipients of Phase II support would be subject generally to the same reporting, audit, and record retention requirements. Because Mobility Fund support will differ in some respects from support received under other USF high-cost support mechanisms, we also propose here that recipients of Phase II support be required to include in their annual reports the same types of additional information that is required of recipients of Phase I support. Should any of these requirements be modified or omitted for recipients of Mobility Fund Phase II support? Are there additional types of information that should be required? We seek comment on these proposals.

6. Economic Model-Based Process

1174. Instead of determining support for mobile wireless providers through competitive bidding, we could determine support using a model that estimates the costs associated with meeting public interest obligations, as well as a provider's likely revenues from doing so. Regardless of which method is used, the objectives of the Mobility Fund's Phase II remain the same. That is, we seek to maximize the reach of mobile broadband services supported with our established budget in areas where there is no private sector business case for providing such services. Accordingly, commenters advocating for a model should address why a model-based approach would better serve this purpose than our proposal above. Below, we seek more detailed comment on the design of such a model and a framework for support in which a model might be used, as compared with our proposed market-based mechanism for determining the level and distribution of necessary support.

a. Model Design

1175. In considering this alternative to a market-based mechanism, we seek here to develop a more detailed record than we have received to date regarding the possible design of a forward looking economic model of costs and revenues of mobile wireless services. Generally, we observe that cost structures, revenue sources, and available data all may vary in the mobile service context from other services, such as fixed wireline voice or broadband. Accordingly, issues that have been addressed in some detail when modeling costs for setting support for non-rural carrier wireline networks must be considered specifically in the context of mobile wireless services.²²⁷⁴ What components of a model for mobile wireless services are critical in accurately forecasting costs and revenues? Is the model more or less sensitive to certain potential errors than others? How does the pace of change in the mobile service industry affect the reliability of a model for projections of greater than five years, or seven years, or ten

²²⁷⁴ For example, as discussed above, in the CAF broadband context we have decided to use a combination of a forward-looking cost model and competitive bidding processes to award support in price cap territories. We have adopted a framework that focuses on the cost of meeting broadband public interest obligations and does not consider the additional revenues that a provider might obtain by providing other services over a multi-capability network. In the mobile wireless context, given that the materials submitted thus far assert that at least one model is able to model mobile wireless revenues as well as costs, we consider it an open question as to whether it is possible to make a useful estimate of mobile wireless revenues and whether we should attempt to do so.

years?

1176. Two parties already have offered the results of a model-based analysis in selected states to argue for the benefits of a model-based approach, rather than a competitive bidding approach, for the Mobility Fund. In their proposals, both US Cellular and MTPCS have pointed to a CostQuest Associates model for estimating costs and revenues related to mobile service.²²⁷⁵ We seek comment generally on the model that US Cellular and MTPCS describe in their submissions.

1177. In their model-based analyses, both US Cellular and MTPCS estimated the costs of expanding their existing networks in order to provide service in unserved areas. Taking existing networks into account when modeling costs is sometimes referred to as a “brownfield” approach. A brownfield approach assumes that providers will make use of existing assets. The results of such an analysis may be unreliable if the provider controlling the relevant assets chooses not to receive support and uses those assets for other purposes. Moreover, the costs for one provider may be very different from the costs for another provider, due to differences in their access to existing assets. We seek comment on how best to construct a “brownfield” model when the goal is not to model the costs of individual mobile wireless provider, but of a generic provider in an area.

1178. According to the description of the CostQuest model included in both parties’ submissions, CostQuest’s model also enables users to determine the cost of offering wireless service without using existing assets. Modeling costs of providing service without pre-existing assets is sometimes referred to as a “greenfield” approach. A greenfield approach runs the risk of overestimating the necessary costs of providing service by failing to make efficient use of existing assets. We seek comment on the relative advantages of a brownfield or greenfield approach in the context of mobile services when determining which areas require support and when determining how much support is required.

1179. Modeling also raises concerns regarding the accuracy of data (inputs) used in the model. For example, for mobile service, how critical is it that the model accurately forecast base station locations? In an efficient network providing mobile service, base station locations are interdependent – the signal from one should overlap with another sufficiently to assure effective coverage but not so much as to create interference. Assumptions regarding any base station location in a network may be significant with respect to the final number and location of all base stations, and therefore the cost of the entire network. This is especially true with respect to pure greenfield models, which make assumptions about the possible locations of cell sites without being able to take account of actual constraints in locating such sites. We seek comment on the ways, if any, to assess the sensitivity of model-based results to potential errors regarding site location when estimating costs for providing mobile service. Would the use of a brownfield approach substantially reduce such sensitivity?

1180. In addition to assessing costs, the CostQuest model employed by US Cellular and MTPCS also assesses incremental revenues from expanded mobile coverage when determining an area’s need for support. If a provider can count on generating revenue from the network expansion that meets or exceeds related costs, even the highest cost area may not require support. How could we take into account revenues in a model used for mobile support? Could we develop non-party-specific estimates of incremental revenues? Should we consider potential revenues from non-supported services that could be offered over the network infrastructure that provides supported voice service, including the mobile broadband service required as a condition of Mobility Fund support, or other services, like subscription video services? What estimates could the Commission use with respect to the potential costs and revenues associated with the provision of such services?

²²⁷⁵ Both US Cellular and MTPCS have submitted the results of their attempts to model the need for and extent of support required to provide wireless service in unserved areas in selected states.

1181. Notwithstanding their significance in determining the need for support, estimating revenues may be difficult, particularly over longer periods of time. Given difficulties in estimating consumer interest in particular service offerings at particular prices, errors in estimating revenues may be more likely to occur and, when they occur, more likely to result in larger errors in determining the appropriate level of support. We seek comment on the extent to which we might be able to achieve the appropriate balance between the inclusion of revenue estimates and the likely accuracy of the model's outcomes, and, if so, how we would do so.

1182. As mentioned previously, a model might be used simply to determine what areas require support for the public interest obligations to be met, rather than determine that as well as the amount of support to be provided. We seek further comment on whether a mobile wireless model may be sufficiently reliable for purposes more limited than determining support levels. For instance, could a model offer guidance on the appropriate level of support, such as determining a maximum that might be offered in a competitive bidding process in a particular area, without being sufficiently accurate to rely on for determining the actual level of support in that area?

b. Framework for Economic Model-Based Process

1183. If we were to use an economic model to determine support levels, the goals and objectives of the Phase II Mobility Fund would continue to be to support next generation mobile service where support is needed in as many areas as possible, given the limited funds available. For example, the public interest obligations attaching to the receipt of support would remain the same. We seek comment generally, however, on which, if any, elements of our proposed framework would need to change if we decided to use a model-based process for determining support.

1184. We also seek comment specifically on whether the granularity with which an economic model produces reliable cost and/or revenue estimates would have any impact on the geographic areas being made available for mobile services support. If a model is more likely to determine support amounts accurately only over an area larger than a census block, does it mean that we should increase the minimum area for which support is offered? Accordingly, we seek comment on the minimum area for offering model-based support. Similarly, would a model be more accurate in estimating support for areas based on resident population instead of road miles? If so, would we have to use resident population as a metric for offering support and measuring compliance with public interest obligations if we adopt a model-based approach?

1185. As we have discussed, in order to extend our limited budget to reach the widest possible coverage, we generally expect to offer support to only one mobile services provider in an area. We seek comment on how to implement that principle under a model-based approach. In contrast to competitive bidding, we note the model-based approach does not include a mechanism for selecting among multiple parties that might be interested in receiving the support offered. We seek comment on how we should address this issue. Should we determine the party that receives support through a qualitative review of would-be providers? If so, what factors should that review take into account? Should we reserve support for a particular area to the provider currently receiving universal service support that has the most extensive network within a defined area? What other method could we use to select among providers? In addition, as noted above, we could use the results of a wireless model to set reserve prices in the context of competitive bidding.²²⁷⁶ We seek comment here on how we could use the results of a wireless model to distribute the amounts budgeted for Mobility Fund Phase II, consistent with our use of a wireline cost model in CAF-Phase II to target support to high-cost areas subject to our budget.

1186. We note that US Cellular and MTPCS – in their filings – propose using the mobile

²²⁷⁶ See *supra* para.1155.

wireless model to calculate the support required in an area per resident subscriber and permitting multiple providers to receive support for service in the same area. Given the economics of the underlying terrestrial wireless technology, permitting multiple providers to receive support could increase the amount of support required per subscriber, as the number of subscribers per provider will decline. We seek comment on this concern.

1187. We also seek comment on whether using mobile model-based support would change the appropriate length of the term of support. Are there aspects of the model that link its estimates to particular time periods? Is that reason to offer the support for any particular length of time? Is it possible to estimate the cost of meeting the proposed increases in public interest obligations several years in advance? Particularly with respect to a mobile wireless model used to determine ongoing support for a term of years, how should the Commission address potential changes in circumstances or technology over time that would change modeled costs and/or revenues?

1188. Finally, commenters addressing the possible use of a model-based approach in place of competitive bidding for the second phase of the Mobility Fund should discuss whether we would need to make any changes to the management and oversight of the program if we use a model-based approach, as well as any other changes they believe we should make to the framework we propose above for a competitive bidding mechanism.

J. Competitive Process in Price Cap Territories Where the Incumbent Declines to Make a State-Level Commitment

1189. Today the Commission adopts a framework for USF reform in areas served by price cap carriers where support will be determined using a combination of a forward-looking broadband cost model and competitive bidding to efficiently support deployment of networks providing both voice and broadband service over the next several years. In each state, each incumbent price cap carrier will be asked to undertake a state-level commitment to provide affordable broadband to all high-cost locations in its service territory in that state, excluding locations served by an unsubsidized competitor, for a model-determined efficient amount of support. In areas where the incumbent declines to make that commitment, we will use a competitive bidding mechanism to distribute support in a way that maximizes the extent of robust, scalable broadband service and minimizes total cost. This FNPRM addresses proposals for this competitive bidding process, which we refer to here as the CAF auction for price cap areas. The FNPRM proposes program and auction rules, consistent with the goals of the CAF and the Commission's broader objectives for USF reform.

1. Overall Design of the Competitive Bidding Process

1190. Consistent with the Commission's decision to use incentive-driven policies to maximize the value of scarce USF resources, we propose to use a reverse auction mechanism to distribute support to providers of voice and broadband services in price cap areas where the incumbent ETC declines to accept model-determined support. Assigning support in this way should enable us to identify those providers that will make most effective use of the budgeted funds, thereby extending services to as many consumers, businesses, and community anchor institutions as possible. We propose to use a competitive bidding mechanism to identify those eligible areas – and associated providers – where supported services can be offered at the lowest cost per unit.

2. Framework for Awarding Support Under Competitive Bidding

a. Identifying Geographic Areas Eligible for Competitive Bidding

1191. *Identifying Eligible Areas.* In any areas where the price cap ETC declines to make a state-level commitment, we propose to conduct competitive bidding to award support using the same

areas identified by the CAF Phase II model as eligible for support.²²⁷⁷ We also seek comment on other approaches to defining the areas to be used in this auction. For example, the Commission could exclude areas that, based on the most recent data available, are served – at any speed, at 4 Mbps downstream / 1 Mbps upstream, or at 6 Mbps downstream / 1.5 Mbps upstream. In addition, the Commission could use different cost thresholds for defining service, for example, including all unserved areas regardless of cost in the auction. As we did for Phase I of the Mobility Fund and have proposed for Phase II, we propose to use census blocks as the minimum size geographic unit eligible for competitive bidding. As discussed in these other contexts, using census blocks will allow us to target support based on the smallest census geography available. We seek comment on this proposal, as well as on alternatives that commenters may suggest.

1192. *Minimum Size Unit for Bidding and Support.* We propose that the census block should be the minimum geographic building block for defining areas for which support will be provided. In connection with our Mobility Fund Phase II proposals, we noted that because census blocks are numerous and can be quite small, we believe that we will need to provide at the auction for the aggregation of census blocks for purposes for bidding. We discussed a number of ways to permit such aggregation, including the possibility of adopting a rule regarding a minimum area for bidding comprised of an aggregation of eligible census blocks, such as tracts, and/or the use of auction procedures that provide for bidders to be able to make “all-or-nothing” package bids on combinations of bidding areas. We also explained, in some detail for Mobility Fund Phase II, two of the possible approaches to the issue of census block aggregation, namely a Census Tract-type approach and a Bidder-Defined approach. We seek comment here on whether a Census Tract-type approach, Bidder-Defined approach, or another approach would best meet the needs of bidders in the CAF auction for support in price cap areas.

1193. *Prioritizing Areas.* In addition, we seek comment on whether we should target areas currently without any broadband service for priority treatment in whatever competitive bidding mechanism we adopt. For instance, should we provide a form of bidding credit that would promote the support of such areas?

b. Establishing Bidding and Coverage Units

1194. In order to compare bids, we propose to assign a number of bidding units to each eligible census block. Consistent with the terms of the public interest obligations undertaken by bidders, we propose to base the number of units in each block on the number of residential and business locations it contains, using the 2010 decennial census data. We seek comment on this proposal, and on any alternatives that commenters may suggest.

c. Maximizing Consumer Benefits

1195. The Commission’s objective is to distribute the funds it has available for price cap areas where the incumbent ETC declines to make a state-level commitment in such a way as to bring advanced services to as many consumers as possible in areas where there is no economic business case for the private sector to do so. Where the incumbent declines to make a state-level commitment to provide affordable broadband to all high-cost locations in its service territory in return for model-determined support in each state, we propose to use the competitive bidding mechanism described here, which will be open to any provider able to satisfy the public interest obligations associated with support. Thus, we envision that there may be more than one ETC that seeks such support for any given area. In contrast to the former rules, under which multiple providers are entitled to an award of portable, per-subscriber support for the same area, we expect that to maximize coverage within our budget we will generally be supporting a single provider for a given geographic area through this auction. As noted in our discussion

²²⁷⁷ See *supra* paras. 167-170.

of approaches for Mobility Fund Phase II, we would support more than one provider in an area only if doing so would maximize coverage. As with Phase II of the Mobility Fund, we are mindful that our statutory obligation runs to consumers, rather than carriers, and that we must target our limited funds for support in a way that expands and sustains the availability of mobile broadband services to maximize consumer benefits. And as with Phase II of the Mobility Fund, we also propose that a competitive ETC would become ineligible to receive support for any area under our phase down of frozen legacy support formerly distributed pursuant to the identical support rule as soon as it began receiving CAF support for that same area. We seek comment on these issues.

1196. We also seek comment on whether and to what extent ETCs that receive such support through a competitive bidding process should be permitted to partner with other providers to fulfill their public interest obligations. In addition, we invite comment on whether we should establish any limit on the geographic extent to which any one provider may be awarded such support. Is there another basis on which we should limit the amount of support that goes to any one provider?

d. Term of Support

1197. We propose a term of support for providers that receive support through this auction that is equal to that adopted for providers that accept state-level model-determined support. Accordingly, we propose a term of support of five years, subject to recipients complying with the obligations of the program. We seek comment on this proposal, and whether a longer time-period, e.g., ten years, would better serve our goals. We also seek comment on whether it is appropriate to establish any sort of renewal opportunity, and on what terms, including whether there should be any difference here from universal service support awarded under a state-level-commitment.

e. Provider Eligibility Requirements

1198. To be eligible to receive support through this competitive bidding process, we propose that an ETC must certify that it is financially and technically capable of providing service within the specified timeframe. We anticipate that price cap ETCs that decline model-determined support would remain eligible to participate at auction, but seek comment on the advantages and disadvantages of this approach. Below, we discuss these eligibility requirements and their associated timing.

1199. *ETC Designation.* For the same reasons that apply with respect to other CAF programs, we generally propose to require that applicants for support be designated as ETCs covering the relevant geographic area prior to participating in an auction.²²⁷⁸ As a practical matter, this means that parties that seek to participate in the auction must be ETCs in the areas for which they will seek support at the deadline for applying to participate in the competitive bidding process. We seek comment on this proposal.

1200. *Certification of Financial and Technical Capability.* We also propose that each party seeking to receive support determined in this auction be required to certify that it is financially and technically capable of providing the required service within the specified timeframe in the geographic areas for which it seeks support. We seek comment on how best to determine if an entity has sufficient resources to satisfy its obligations. Should the Commission require that any entity finance a fixed percentage of any build-out with non-CAF or private funds? We likewise seek comment on certification regarding an entity's technical capacity. Do we need to be specific as to the minimum showing required to make the certification? Or can we rely on our post-auction review and performance requirements?

1201. *Eligibility of Carriers Declining a State-Level Commitment Covering the Area.* We are not inclined to restrict the eligibility of carriers that could have accepted model-determined support for

²²⁷⁸ As discussed *infra*, we propose a narrow exception for Tribally-owned or controlled entity that has an application for ETC designation pending at the time of the relevant short-form application deadline.

the area that will be auctioned, but seek comment on this approach. What effect does the opportunity to seek support in a subsequent auction have on incentives to accept or decline a state-level commitment in exchange for model-determined support? How should the differences in potential service areas be taken into account, given that potential bidders in the auction will not be required to bid on the entire territory of the price cap carrier in that state?

1202. *Other Qualifications.* In addition to the minimum qualifications described above, we seek comment on other eligibility requirements for entities seeking to receive support in an auction after the price cap incumbent declines to make a state-level commitment. Parties providing suggestions should be specific and explain how the eligibility requirements would serve our objectives. At the same time that we establish minimum qualifications consistent with these goals, are there ways the Commission can encourage participation by the widest possible range of qualified parties? For example, are there any steps the Commission should take to encourage smaller eligible parties to participate in the bidding for support?

f. Public Interest Obligations

1203. *Service Performance Requirements and Measurement.* We propose that recipients of support awarded through this competitive bidding process be obligated to provide service meeting specified performance requirements. Further, we propose that these performance requirements be the same as those required of providers that accept model-determined support. Under this proposal, the Commission would seek to maximize via competitive bidding (both within and across regions) the amount of broadband service being offered at the same full performance levels required above for incumbent providers willing to undertake a state-level broadband commitment. We seek comment on this proposal.

1204. Alternatively, we seek comment on relaxing the minimum performance requirements sufficiently to expand the pool of technologies potentially eligible to compete for support. Under this approach, providers could offer different performance characteristics, such as download and/or upload speeds, latency, and limits on monthly data usage, and the Commission would score such "quality" differences in evaluating bids.²²⁷⁹ That is, individual providers could propose different prices at which they would be willing to offer services at different performance levels, and the Commission would select the winning bids based on both the prices and the performance scores. To simplify the bidding process, the Commission could limit the set of performance levels that providers could bid to offer – for instance, to a standard broadband offering and a higher quality broadband offering. This general approach would give the Commission the option of making tradeoffs between supporting a higher quality service to fewer locations versus supporting a standard service for more locations. Additionally, such an approach should result in more competitive bidding by allowing more technologies to compete for funding (both within a region and across regions), thereby enabling the Connect America Fund's budget to yield greater coverage at acceptable broadband performance standards than under the proposal above. We seek comments on how the Commission could best implement this alternative -- including how to score different performance dimensions, and, whether providers should specify as part of their bids the retail prices they would charge consumers and, if so, how to include such prices in scoring the bids. Parties should further address how the Commission should assess the public interest tradeoffs between offering a higher quality to fewer customers and accepting a lower quality for some customers but serving more customers. We also seek comment on whether and how the possibility of obtaining support for a lower quality service would affect the incentives of incumbent providers to accept or decline a state-level broadband commitment. We seek comment from providers of services used by people with disabilities,

²²⁷⁹ See ViaSat, Inc. and Wild Blue Communications, Inc., Ex Parte Notice, WC Docket No. 10-90, July 29, 2011, Attach. at 11-12 ("The CAF Auction: Design Proposal," paras. 33-38).

such as Internet-based telecommunications relay services, including VRS, and point-to-point video communications or video conferencing services, as to the minimum performance requirements needed to support such services and communications.

1205. *Requesting Locations.* We propose that support recipients be required to provide subsidized service to as many locations as request service in their areas during the term of support. Alternatively, we seek comment on whether we should limit the number of locations that must be served in any area based on the number of locations identified at the time of the auction. Such a limit would be consistent with limiting the total amount of support available. However, it would not take into account changes in the number of eligible locations during the term for which support will be provided. In order to take growth into account while maintaining a limit on the total amount of support, should we provide for a presumed growth rate in the number of locations during the term of support? Or should we simply require providers to serve whatever number of future locations there may be, effectively requiring providers to take into account their own estimates of such growth when bidding for support?

1206. *Reasonably Comparable Rates.* We propose that recipients of support through CAF auctions for price cap areas will be subject to the same requirements regarding comparable rates that apply to all recipients of CAF support.²²⁸⁰

1207. *Deployment Deadlines.* We propose that recipients be required to meet certain deployment milestones in order to remain qualified for the full amount of any award. Further, we propose that deployment milestones that apply to ETCs through a competitive process be the same as those that apply to price cap ETCs that accept a state-level commitment. We seek comment on whether recipients of CAF auction support should instead be subject to different deployment deadlines.

3. Auction Process Framework

1208. In this section, we propose general auction rules governing the competitive bidding process itself, including options regarding basic auction design, application process, information and competition, and auction cancellation.²²⁸¹

1209. Consistent with the rules we have established for the Mobility Fund Phase I and proposed for Mobility Fund Phase II, we propose to delegate to the Bureaus authority to establish detailed auction procedures, take all other actions to conduct this competitive bidding process, and conduct program administration and oversight consistent with any rules and policies we establish in light of the record we receive based on the proposals made for this CAF auction process for support. We seek comment on this proposal.

a. Auction Design

1210. Consistent with the rules established for the Mobility Fund Phase I and proposed for the Mobility Fund Phase II, we are proposing certain general rules outlining various auction design options and parameters, while at the same time proposing that final determination of specific auction procedures to implement a specific design based on these rules be delegated to the Bureaus as part of the subsequent pre-auction notice and comment proceeding. Among other issues, we propose to give the Bureaus discretion to consider various procedures for grouping eligible areas to be covered with one bid – package bidding – that could be tailored to the needs of prospective bidders as indicated during the pre-auction notice and comment period.

1211. We are inclined to believe that some form of package bidding may enhance the auction by helping bidders to incorporate efficiencies into their bids. While the Bureaus will establish specific

²²⁸⁰ 47 U.S.C. § 254(b)(3). See *supra* paras. 113-114.

²²⁸¹ See Auction Rules included in Appendix A.

procedures to address this issue later, we invite preliminary comment on whether package bidding may be appropriate for this auction, and if so, why. Above, we asked for input on package bidding as it relates to our choice of a Census Tract-type or Bidder-Defined approach for the Mobility Fund Phase II. Here, we ask for any additional comments on the potential advantages and disadvantages of possible package bidding procedures and formats in the context of awarding support to ensure the universal availability of modern networks capable of delivering broadband and voice service to homes, businesses, and community anchor institutions. In particular, we ask for input on the reasons why certain package bidding procedures would be helpful or harmful to providers bidding in an auction, and what procedures might best meet our goal of maximizing such universal availability. For example, regardless of whether we adopt the Census Tract-type or Bidder-Defined approach, should we impose some limits on the size or composition of package bids, such as allowing flexible packages of blocks or larger geographic units as long as the geographic units are within the boundaries of a larger unit such as a county or a state? Or, if we adopt the Census Tract-type approach, we could establish package bidding procedures that allow bidders to place package bids on predetermined groupings of eligible areas that follow a particular hierarchy – such as blocks, tracts, counties, and/or states, which nest within the census geographic scheme.

1212. We seek preliminary comment, as well, on determining reserve prices for the auction based on the support amounts estimated by a forward looking broadband cost model that we direct the Bureau to develop and adopt in the coming year, *i.e.*, the model used to determine the amount offered in exchange for state-level commitments.

b. Potential Bidding Preference for Small Businesses

1213. We also seek comment on whether small businesses should be eligible for a bidding preference in a CAF auction for support in price cap areas and whether such a bidding preference would be consistent with the objective of providing such support. The preference would be similar to the small business preference on which we seek comment for auctions of Mobility Fund Phase II support, and would act as a “reverse” bidding credit that would effectively reduce the bid amount of a qualifying small business for the purpose of comparing it to other bids.²²⁸² We also seek comment on the size of any small business bidding credit, should the Commission adopt one, that would be appropriate to increase the likelihood that the small business would have an opportunity to win support in the auction. We also seek comment on how we should define small businesses if we adopt a small business bidding credit for auctions to award support in price cap areas. Specifically, for the reasons provided in our discussion of Mobility Fund Phase II, we seek comment on whether a small business should be defined as an entity with average gross revenues not exceeding \$40 million for the preceding three years.²²⁸³ Alternatively, should we consider a larger size definition for this purpose, such as average gross revenues not exceeding \$125 million for the preceding three years?²²⁸⁴ In determining an applicant’s gross revenues under what circumstances should we attribute the gross revenues of the applicant’s affiliates? We seek comment on

²²⁸² Similar to the proposal made for Mobility Fund Phase II, the preference would be available with respect to all census blocks on which a qualified small business bids.

²²⁸³ See *e.g.*, In re Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59), *Report and Order*, GN Docket No. 01-74, 17 FCC Rcd 1022, 1087 ¶ 172 (2002).

²²⁸⁴ The Commission established a size definition for entrepreneurs eligible for broadband PCS C block spectrum licenses based on gross revenues of less than \$125 million in each of the last two years and total assets of less than \$500 million. In re Section 309(j) of the Communications Act – Competitive Bidding, *Fifth Report and Order*, PP Docket No. 93-253, 9 FCC Rcd 5532, *36 ¶ 115 (1994); see also 47 C.F.R. § 24.709(a)(1). Although this definition was used more than a decade ago in the context of spectrum auctions, we seek comment on whether it would be appropriate to use the gross revenues standard of the definition in this universal service context as it would encompass more small businesses.

these definitions and invite input on whether an alternative basis for a size standard should be established.

c. Auction and Post-Auction Process

1214. *Short-Form Application Process.* We propose to use the same two-stage application process described in the Mobility Fund Phase I Order and proposed for Mobility Fund Phase II. We seek comment on this proposal and on whether there are any reasons to deviate from the process already adopted for the Mobility Fund.

1215. *Information and Communications.* We do not expect there to be circumstances specific to this auction that would indicate to us that we should deviate from our usual auction policies with respect to permissible communications during the auction or the public release of certain auction-related information. Hence, we propose to use the same rules and procedures regarding permissible communications and public disclosure of auction-related information adopted in the Mobility Fund Phase I Order and proposed for Mobility Fund Phase II. We seek comment on this proposal.

1216. *Auction Cancellation.* We propose to adopt for price cap CAF auctions the same rule adopted for Mobility Fund Phase I and proposed for Mobility Fund Phase II, which would provide the Bureaus with discretion to delay, suspend, or cancel bidding before or after a reverse auction begins under a variety of circumstances. We seek comment on this proposal.

1217. *Post-Auction Long-Form Application Process.* We propose to apply the post-auction long-form application process for Mobility Fund Phase I to participants in auctions for price cap CAF. Accordingly, applicants that win competitive bidding in such auctions would be required to demonstrate in their long-form applications that they are legally, technically and financially qualified to receive the support. We seek comment on this approach.

1218. In addition, we propose that a winning bidder will be subject to an auction default payment, if it defaults on its bid, including if it withdraws a bid after the close of the auction, fails to timely file a long form application, is found ineligible or unqualified to be a recipient of support, or its long-form application is dismissed for any reason after the close of the auction. In addition, we propose that recipients of support will be subject to a performance default payment. We propose the same rules for both of these default payments as we have adopted for Mobility Fund Phase I. We seek comment on these proposals.

4. Tribal Issues

1219. We seek comment on whether to establish special provisions to help ensure service to Tribal lands. To the extent practicable, we anticipate that support is best awarded using the same framework, and on the same terms and conditions, as we propose for other areas where the price cap carrier declines to make a state-level commitment to provide services. We recognize, however, that there are several aspects of the challenges facing Tribal lands for which a more tailored approach may be appropriate, as evidenced in the record developed to date with regard to the Tribal Mobility Fund Phase I and as proposed elsewhere. For example, we seek comment on whether to adopt revisions to identify eligible geographic areas and appropriate coverage units, consistent with the approach we took in the Tribal Mobility Fund Phase I. We also propose Tribal engagement requirements, preferences that reflect our unique relationship with Tribes, including a bidding credit of 25 percent for Tribally-owned and controlled recipients, and ETC designation provisions to allow a Tribally-owned or controlled entity to participate at auction provided that it has an application for ETC designation pending at the short-form application stage. We seek comment on these issues. In addition, we seek comment on establishing a Tribal priority along the lines we proposed for the Tribal Mobility Fund Phase II. We believe that these measures would help to ensure service in a way that acknowledges the unique characteristics of Tribal lands and reflects and respects Tribal sovereignty. To the extent we adopt our proposal for Tribal priority units, we seek comment on whether a Tribally-owned and controlled provider should also be eligible to receive a bidding credit within its Tribal land or if the Tribe must choose between one or the other. If we

offer a bidding credit to Tribally-owned and controlled providers, would a 25 percent bidding credit, like the one we have adopted for Phase I and proposed for Phase II of the Mobility Fund be sufficient, or does it need to be set at a different level to achieve our objectives? Finally, we seek comment on whether to adopt an alternative backstop support mechanism for any Tribal land in which the auction fails to attract a bidder.

5. Accountability and Oversight

1220. We propose that all recipients of CAF support awarded through a competitive process would be subject generally to the same reporting, audit, and record retention requirements adopted in the Order. We seek comment on this proposal.

1221. In structuring support, we are mindful that we must comply with the Anti-Deficiency Act, which prohibits any officer or employee of the U.S. Government from involving the “government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law.”²²⁸⁵ Commenters are invited to address how to structure an award of support for a period of years to provide recipients with the requisite level of funding and certainty, while ensuring that the Commission’s Anti-Deficiency Act obligations are met.

6. Areas that Do Not Receive Support

1222. Any areas that do not receive support either via a price cap carrier accepting a state-level commitment or via the subsequent auction would be eligible for support from the Remote Areas Fund budget.

K. Remote Areas Fund

1223. Today’s Order adopts a number of reforms aimed at ensuring universal availability of robust and affordable voice and broadband services to all Americans. A key element of these reforms is our dedication of an annual budget of at least \$100 million to ensure that the less than one percent of Americans living in remote areas where the cost of deploying traditional terrestrial broadband networks is extremely high can obtain affordable broadband.²²⁸⁶ We seek comment on how best to implement the Connect America Fund for remote areas (“Remote Areas Fund”).

1224. The obstacles to ensuring that affordable voice and broadband service are available in extremely high-cost areas differ somewhat from the obstacles to ensuring that such services are available in other areas supported by the Connect America Fund. As discussed above, with respect to those latter areas our focus has been on how best to facilitate the deployment of robust fixed and mobile broadband technologies where our universal service fund budget can support such deployment. In contrast, in extremely high-cost areas, available universal service support is unlikely to be sufficient for the deployment of traditional terrestrial networks supporting robust voice and broadband services. The Connect America Fund can help fulfill our universal service goals in these areas by taking advantage of services such as next-generation broadband satellite service or wireless internet service provider (WISP) service, which may already be deployed (or may be deployable with modest upfront investments) but may

²²⁸⁵ 31 U.S.C. § 1341(a)(1)(B).

²²⁸⁶ See *supra* paras. 533-534. We acknowledge that many, but not all, extremely high cost areas are remote, in terms of distance from areas that are not high cost, and that some remote areas are not necessarily extremely high cost. We seek comment throughout this FNPRM on how to ensure that support from the Remote Areas Fund is targeted at areas that would be extremely high cost to serve with traditional terrestrial networks; we refer to these areas throughout this Section as “remote” or “extremely high cost.”

be priced in a way that makes service unaffordable for many consumers.²²⁸⁷ In addition, we recognize that some of the most likely providers of service to these remote areas have cost structures, price structures, and networks that differ significantly from those of other broadband providers. For instance, the cost of terminal equipment and installation for satellite broadband often is greater than for other broadband offerings. As commenters address the issues raised in this section, we ask them to focus in particular on these characteristics and explain what, if any, impact they should have on the structure of the Remote Areas Fund.

1. Program Structure

1225. We seek comment on how to structure the Remote Areas Fund. We propose that support for remote areas be structured as a portable consumer subsidy. Specifically, we seek comment on CAF support being used to make available discounted voice and broadband service to qualifying residences/households in remote areas,²²⁸⁸ in a manner similar to our Lifeline and Link Up programs (together, Lifeline). As with Lifeline and Link Up, ETCs providing service in remote areas would receive subsidies only when they actually provide supported service to an eligible customer. Such a program structure would have the effect of making voice and broadband more affordable for qualifying consumers, thus promoting consumer choice and competition in remote areas. We seek further comment on how to implement such a proposal in sections XVII.K.2 and XVII.K.3 below.

1226. We also seek comment on an alternative structure for the Remote Areas Fund, which would use a competitive bidding process. Such a process could be conducted in one of three ways: (a) a per-subscribed-location auction, (b) a coverage auction, or (c) an auction of support that would include not only remote areas but also areas where the incumbent LEC declines to undertake a state-level commitment. We seek further comment on how the Commission could implement such a proposal in sections XVII.K.2 and XVII.K.4 below.

1227. Another alternative would be to structure CAF support for remote areas as a competitive proposal evaluation process, or Request for Proposal (RFP) process. We seek comment on this approach in section XVII.K.5 below.

1228. We also seek comment generally on whether there are other ways to structure CAF support for remote areas. Are there other alternatives that we should consider? Commenters should address considerations of timeliness, ease of administration, and cost effectiveness relative to the proposed portable consumer subsidy and auction approaches. For any proposed alternative, we also seek comment on whether our approach to management and oversight of this program, as described below, should differ.

2. General Implementation Issues

a. Definition of Remote Areas

1229. As discussed above, we intend to use a forward-looking cost model – once finalized – to identify a small number of extremely high-cost areas in both rate-of-return and price cap areas that should

²²⁸⁷ Because the Remote Areas Fund is likely to provide support on a per-subscribed location basis to make affordable to consumers service that is likely deployed or relatively easily deployed, we are less concerned that selecting more than one provider will deplete the fund by providing duplicative support than we are in the context of the Mobility Fund, where support is aimed at sustaining and expanding coverage in areas where coverage would be lacking absent support.

²²⁸⁸ We seek comment on whether support to non-business locations should be made available on a per-residence or a per-household basis. *See infra* section VII.K.3.a. Pending resolution of that issue, we refer to non-business locations as “residences/households.”

receive support from the Remote Areas Fund.²²⁸⁹ However, given our goal of implementing the program by the end of 2012,²²⁹⁰ we will not be able to use the model to identify, at least in the first instance, remote areas eligible for CAF support.²²⁹¹

1230. We therefore seek comment on how to identify the areas eligible for the Remote Areas Fund while the model is unavailable. We propose to provide support to those census blocks in price cap territories that are identified by National Broadband Map data as having no wireline or terrestrial wireless broadband service available, subsidized or unsubsidized.²²⁹² We seek comment on this proposal. Could this test be used as a proxy for identifying extremely high-cost areas? Is the National Broadband Map data sufficiently granular? Given that it is reported voluntarily by broadband providers, may the data be considered reliable enough for this purpose? Is there a risk that use of that metric would result in overlap with areas that likely would be supported by Mobility Fund monies or by funding made available post-state-level commitment? Could any overlap be addressed by making areas ineligible to the extent they are supported by other CAF funds? Given the goal of increasing broadband availability quickly, might the benefits of permitting overlaps for some time period outweigh the costs? Are there other data sources that could be used in conjunction with National Broadband Map data to improve our identification of remote areas? Are there alternative methods to using National Broadband Map data that the Commission could use to identify those remote areas in which CAF support should be available? What would be the advantages and disadvantages of such methods?

1231. Should the Commission switch from its initial method of identifying remote areas eligible for support (e.g., by using National Broadband Map data) to the forward-looking cost model once the model is available? Regardless of the method used, how frequently should the Commission reexamine whether an area is appropriately classified as “remote” for the purposes of Remote Area Fund support? The National Broadband Map is updated approximately every six months – would that be an appropriate interval?²²⁹³ Is a periodic reexamination of the classification of remote areas sufficient to ensure that Remote Areas Fund support is not provided in areas where other carriers are providing broadband supported by other CAF elements? Likewise, is it sufficient to ensure eligibility for the Remote Areas Fund for consumers in areas where a carrier that currently receives USF support ceases to provide broadband service because that support is no longer available in whole or in part?

1232. We note that whether the Remote Area Fund is distributed as one-time awards or as ongoing support may affect the impact of any reexamination of the classification of remote areas. If one-time awards were distributed, up to \$100 million for a given year, additional money would be available in subsequent years. If ongoing support were awarded, and \$100 million were committed for a term of years, it would foreclose the possibility of support for additional areas later identified as “remote” by the model. Therefore, regardless of the distribution mechanism (portable consumer subsidy, auction, or

²²⁸⁹ We also propose in the FNPRM that any eligible areas that do not receive CAF Phase II support, either through a state-level commitment or through the subsequent competitive bidding process, would be eligible for support from the Remote Areas Fund. *See supra* para. 1222.

²²⁹⁰ *See supra* para. 30.

²²⁹¹ We expect the CAF Phase II model to be available at the end of 2012. *See supra* para. 25.

²²⁹² As set forth in the CAF Order, rate-of-return carriers are required to extend broadband on reasonable request, and in the near term, pending fuller development of the record and resolution of these issues, we expect they will follow pre-existing state requirements, if any, regarding service line extensions in their highest-cost areas.

²²⁹³ National Broadband Map, About National Broadband Map, <http://www.broadbandmap.gov/about> (last visited Oct. 17, 2011).

RFP), we propose to use one-time support until the model is complete. Thereafter, the Commission may decide to use one-time support, ongoing support, or a combination of the two.

b. Provider Qualifications

1233. To be eligible to receive CAF support for remote areas, we propose that a provider (i) must be an ETC, and (ii) must certify that it is financially and technically capable of providing service within the specified timeframe.

1234. *ETC Designation.* For the same reasons that apply with respect to other components of CAF, we generally propose to require that applicants for CAF support for remote areas be designated as ETCs covering the relevant geographic area as a condition of their eligibility for such support.²²⁹⁴ We seek comment on this proposal.

1235. We also seek comment on the Commission's authority to designate satellite or other providers as ETCs pursuant to section 214(e)(6). Section 214(e)(6) authorizes the Commission to designate ETCs in the limited cases where a common carrier is not subject to the jurisdiction of a state commission.²²⁹⁵ Under current procedures, when a carrier seeks ETC designation by the Commission, it must obtain from the relevant state an affirmative statement that the state lacks authority to designate that provider as an ETC.²²⁹⁶ In order to streamline the implementation of CAF support for remote areas, should the Commission change its determination that carriers seeking non-Tribal land ETC designation must first seek it from the state commissions? Likewise, to the extent that providers may seek to serve remote areas in multiple states, can and should the Commission establish a streamlined process whereby the Commission could grant providers a multi-state or nationwide ETC designation? What modifications, if any, should be made to our ETC regulations in light of the particular characteristics of CAF support for remote areas? Would forbearance from any of the existing obligations be appropriate and necessary?

1236. *Certification of Financial and Technical Capability.* We also propose that each party seeking to receive CAF support for remote areas be required to certify that it is financially and technically capable of providing the required service within the specified timeframe in the geographic areas for which it seeks support. We seek comment on what specific showings should accompany any such certification.

1237. *Other Qualifications.* In addition to the minimum qualifications described above, we seek comment on other eligibility requirements for entities seeking to receive support for remote areas and how such requirements would advance our objectives. At the same time that we establish minimum qualifications consistent with these goals, are there ways the Commission can encourage participation by the widest possible range of qualified parties, including smaller entities?

c. Term of Support

1238. We seek comment on whether to establish a term of support in conjunction with the Remote Areas Fund. To the extent we adopt a structure that requires a term of support, we propose a five-year term, and seek comment on alternative terms. We also seek comment on whether it is appropriate to establish any sort of renewal opportunity, and on what terms.

²²⁹⁴ See *supra* para. 19, section VI (Public Interest Obligations).

²²⁹⁵ 47 U.S.C. § 214(e)(6).

²²⁹⁶ *USF Twelfth Report and Order*, 15 FCC Rcd at 12255, para. 93. This is true even for CMRS, for which the states clearly lack authority to regulate entry or rates. *Id.* at 12,262-63, para. 110. Because of the complex interrelationships among Tribal, state, and federal authority, providers may seek designation directly from the Commission to provide service in Tribal lands without an affirmative statement from the relevant state that it lacks jurisdiction. *Id.* at 12,265-69, paras. 115-27.

d. Public Interest Obligations**(i) Service Performance Criteria****(a) Voice**

1239. As discussed in the CAF Order, we require all recipients of federal high-cost universal service support (whether designated as ETCs by a state commission or this Commission), as a condition of receiving federal high-cost universal service support, to offer voice telephony service throughout their supported area, and fund recipients must offer voice telephony as a standalone service.²²⁹⁷ As indicated above, ETCs may use any technology in the provision of voice telephony service. Additionally, consistent with the section 254(b) principle that “[c]onsumers in all regions of the Nation . . . should have access to telecommunications and information services . . . that are available at rates that are reasonably comparable to rates charged for similar services in urban areas,”²²⁹⁸ ETCs must offer voice telephony service, including voice telephony service offered on a standalone basis, at rates that are reasonably comparable to urban rates.²²⁹⁹ We find that these requirements are appropriate to help ensure that consumers have access to voice telephony service that best fits their particular needs.²³⁰⁰

(b) Broadband

1240. Because different technologies, which may provide lower speeds and/or higher latencies, are likely to be used to serve locations in extremely high-cost areas than in other areas, and because it is not reasonably feasible to overcome this difference with the limited resources available through the Connect America Fund, we propose to tailor broadband performance requirements to the economic and technical characteristics of networks likely to exist in those remote areas. We therefore propose to modestly relax the broadband performance obligations for fixed voice and broadband providers to facilitate participation in the Remote Areas Fund by providers of technologies like next-generation satellite broadband and unlicensed localized fixed wireless networks, which may be significantly less costly to deploy in these remote areas. We seek comment on the appropriate performance requirements for broadband service to remote areas.

1241. *Speed Requirement.* We note that satellite broadband providers and WISPs are capable of offering service at speeds of at least 4 Mbps downstream and 1 Mbps upstream or intend to do so in the near future.²³⁰¹ We propose that broadband services eligible for CAF support for remote areas must,

²²⁹⁷ With respect to “standalone service,” we mean that consumers must not be required to purchase any other services (e.g., broadband) in order to purchase voice service. See California PUC Comments at 10; Greenlining Institute Comments at 8; Missouri PSC Comments at 7; NASUCA Comments at 38.

²²⁹⁸ 47 U.S.C. § 254(b)(3).

²²⁹⁹ See *Qwest I*, 258 F.3d at 1199-1200.

²³⁰⁰ See AT&T Comments at 103 (indicating that competition will ensure that customers have multiple options for voice service). But see Frontier Comments at 17-9 (stating that many Americans will have access to broadband but will not use it, so fund recipients must continue to provide standalone voice service).

²³⁰¹ See ViaSat, Inc. Comments Exhibit B, Jonathan Orszag and Bryan Keating, *An Analysis of the Benefits of Allowing Satellite Broadband Providers to Participate Directly in the Proposed CAF Reverse Auctions* (Apr. 18, 2011) at 14 (“ViaSat-1 is designed to provide subscribers with a broadband experience that is very comparable to terrestrial services. It will enable ViaSat to offer a variety of service offerings that meet or exceed the Commission’s proposed 4 Mbps download/1 Mbps upload standard.”) (footnotes omitted); Letter from Stephen D. Baruch, Attorney for Hughes Network Systems, LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90, attach. at 11 (filed Sept. 17, 2011) (stating that Hughes satellite broadband will be “[c]apable of serving 3 million subscribers at National Broadband Plan (NBP) targeted speeds in next 18 months” and that “[s]peeds will meet or exceed NBP targets (4 Mbps down/1 Mbps up)”; Wireless Internet Service Providers Association, (continued...)

consistent with other CAF requirements, offer actual speeds of at least 4 Mbps downstream and 1 Mbps upstream.²³⁰² We seek comment on this proposal. Are adjustments to those speeds appropriate given the nature of satellite service, WISP service, or other services? Is the availability of sufficient backhaul capacity a limiting factor that must be taken into account in some circumstances?

1242. *Latency.* Consistent with other CAF requirements, we propose to require ETCs to offer service of sufficiently low latency to enable use of real-time applications, including VoIP.²³⁰³ We recognize that providers that operate satellites in geosynchronous orbits will, as a matter of physics, have higher latency than most terrestrial networks, and seek comment on how to operationalize that requirement. Would it be appropriate to set a latency standard, measured in milliseconds, for satellite services delivered in remote areas? If so, what should that standard be?

1243. *Capacity.* We seek comment on whether services supported by CAF for remote areas should have a minimum capacity requirement, and if so what that requirement should be. We note that both WildBlue and HughesNet currently limit daily or monthly usage by their residential subscribers.²³⁰⁴ Upon launch of their new satellites, both providers may be able to adjust their usage limits.²³⁰⁵

1244. Other elements of CAF require that usage limits for broadband services “must be reasonably comparable to usage limits for comparable residential broadband offerings in urban areas.”²³⁰⁶ Is this standard appropriate for satellite, WISP, and other broadband services in remote areas? Could the Commission establish a different capacity standard for services supported by CAF in remote areas that still enable consumers to utilize distance learning, remote medical diagnostics, video conferencing, and other critical applications, while allowing network operators the flexibility necessary to manage their networks? How would such a standard be operationalized?

(ii) Pricing

1245. We seek comment on the pricing obligations of ETCs that receive Remote Areas Fund support.

1246. *Reasonably Comparable Rates.* The fourth performance goal adopted in the CAF Order is to ensure that rates are reasonably comparable for voice as well as broadband service, between urban

(Continued from previous page)

America’s Broadband Heroes: Fixed Wireless Broadband Providers (2011) at 10, attach. to Letter from Elizabeth Bowles, President, and Jack Unger, FCC Chair, Wireless Internet Service Providers Association, to Sharon Gillett, Chief, Wireline Competition Bureau, FCC, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, GN Docket No. 09-51, CC Docket Nos. 01-92, 96-45 (filed Oct. 20, 2011) (“By 2007, WISP operators were commonly offering 1meg to 4meg speeds to subscribers using the newer platforms.”).

²³⁰² See *supra* para. 94.

²³⁰³ See *supra* para. 96.

²³⁰⁴ See HughesNet, Fair Access Policy, <http://web.hughesnet.com/sites/legal/Pages/FairAccessPolicy.aspx> (last visited Oct. 18, 2011); WildBlue, Fair Access Policy Information, <http://www.wildblue.com/fap/> (last visited Oct. 18, 2011).

²³⁰⁵ See ViaSat Comments at 5 (“ViaSat-1 will feature an innovative spacecraft design yielding capacity that is approximately 50-100 times greater than traditional Ku-band FSS satellites, and approximately 10-15 times greater than the highest capacity Ka-band satellites that serve the United States today.”); Letter from Stephen D. Baruch, Attorney for Hughes Network Systems, LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90, attach. at 11 (“More than 200 Gbps of capacity coming online in next 18 months.”).

²³⁰⁶ See *supra* para. 98.

and rural, insular, and high-cost areas.²³⁰⁷ Rates must be reasonably comparable so that consumers in rural, insular, and high-cost areas have meaningful access to these services.²³⁰⁸ We propose to utilize the standards discussed in the CAF Order to determine whether rates for voice and broadband service in remote areas are reasonably comparable to those in urban areas.²³⁰⁹ We seek comment on this proposal.

1247. Specifically, we propose to consider rates for voice service in remote areas to be “reasonably comparable” to urban voice rates under section 254(b)(3) if rates in remote areas fall within a reasonable range of urban rates for reasonably comparable voice service. Consistent with our existing precedent, we propose to presume that a voice rate is within a reasonable range if it falls within two standard deviations above the national average.²³¹⁰

1248. As with voice services, for broadband services, we propose to consider rates in remote areas to be “reasonably comparable” to urban rates under section 254(b)(3) if rates in remote areas fall within a reasonable range of urban rates for reasonably comparable broadband service.²³¹¹ We expect that the specific methodology to define that reasonable range for purposes of section 254(b)(3) the Bureaus have been directed to develop will be of equal use here.

1249. We are committed to achieving our goal of ensuring that voice and broadband are available at reasonably comparable rates for all Americans. It is unlikely, however, that we will be able to ensure that every residence/household in extremely high-cost, remote areas has access to subsidized voice and broadband service given the overall budget for the Connect America Fund. The Remote Areas Fund is, therefore, focused primarily on making voice and broadband affordable for consumers who would not otherwise have the resources to obtain it. Specifically, we seek comment in the following sections on whether to implement a means test to ensure that those residences/households in remote areas that are most in need of support to make voice and broadband affordable are able to obtain it.

1250. We recognize that this approach would be different from the current Commission approach for advancing universal service in high-cost areas, which does not look at the income levels of individual consumers that are served by carriers that receive funding from the high-cost program. These past decisions, however, were made in the context of a high-cost fund that lacked a strict budget. The Commission has now established an annual budget of no more than \$4.5 billion for the high-cost fund. In the context of this budget, the Commission has considered how best to achieve our goals with respect to the relatively small number of extremely costly to serve locations. Supporting robust fixed terrestrial networks in these remote areas would be so expensive that it would impose an excessive burden on contributors to the fund, even recognizing the section 254(b)(3) comparability principle, which the courts and the Commission have held must be balanced against the other principles.²³¹² Imposing such a burden

²³⁰⁷ See *supra* paras. 55-56.

²³⁰⁸ See 47 U.S.C. § 254(b)(3); *USF/ICC Transformation NPRM*, 26 FCC Rcd at 4584, para. 80.

²³⁰⁹ See *supra* para. 113.

²³¹⁰ The standard deviation is a measure of dispersion. The sample standard deviation is the square root of the sample variance. The sample variance is calculated as the sum of the squared deviations of the individual observations in the sample of data from the sample average divided by the total number of observations in the sample minus one. In a normal distribution, about 68 percent of the observations lie within one standard deviation above and below the average and about 95 percent of the observations lie within two standard deviations above and below the average.

²³¹¹ See *supra* para. 113.

²³¹² *Id.*; see, e.g., *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393, 434 (5th Cir. 1999); *Qwest Corp. v. FCC*, 258 F.3d 1191, 1199-1200 (10th Cir. 2001) *Qwest Corp. v. FCC*, 398 F.3d 1222 (10th Cir. 2005); *Federal* (continued...)

on consumers that contribute to the universal service fund would undermine our universal service goals by raising the cost of communications services.

1251. We seek to ensure that consumers in extremely high-cost areas have an meaningful opportunity to obtain both voice and broadband connectivity, and have concluded that we should support the provision of some service to those who might otherwise have no service at all. We believe this is a reasonable balancing of the section 254(b) principles in the context of remote areas that would be unreasonably expensive to serve by the means contemplated in the other CAF programs. As discussed above in the Order,²³¹³ we believe we can achieve this goal for these remote customers for approximately \$100 million per year. It is appropriate to revisit, in this narrow context, the question of whether we should direct the limited available funds to support residences/households with limited means, rather than offering discounted rates to residences/households for which a somewhat higher price is unlikely to be a barrier to adoption.

1252. *Subsidy Pass Through.* To the extent the Remote Areas Fund is structured in a way that support is provided to ETCs on a per-subscriber basis (e.g., as a portable consumer subsidy or as a per-subscribed-location auction), we propose that ETCs be required to pass the subsidy it receives for a subscriber on to that subscriber – in its entirety – in the form of a discount. This requirement is consistent with Lifeline, and will help to ensure that consumers in remote areas have access to services at reasonably comparable rates. We seek comment on this proposal.

1253. *Price Guarantees.* We seek comment on how to ensure that providers do not raise their prices in response to the availability of the Remote Areas Fund subsidy. One proposal would be to require each ETC to establish an “anchor price” for its basic service offering – including installation and equipment charges – as a condition of eligibility to receive Remote Areas Fund support. Such an approach would provide ETCs with pricing flexibility for all but their basic service offerings, while ensuring that low-income consumers have access to at least one product that is affordable. We seek comment on how to establish appropriate anchor prices. Would it be enough to require that the lowest discounted rate be reasonably comparable to rates in urban areas?

1254. *Consumer Flexibility.* We propose that consumers that receive discounts by virtue of Remote Areas Fund support should be permitted to apply that discount to any service package that includes voice telephony service offered by their ETC – not just to a basic package that is available at an anchor price or to other limited service offerings. Consumers in urban areas generally have the ability to purchase multiple service packages with varying levels of service quality at varying prices. It seems reasonable to afford a consumer in a remote area the same opportunity. We seek comment on this proposal.

3. Portable Consumer Subsidy Issues

a. Subscriber Qualifications

1255. As discussed above, we propose that CAF support for remote areas be used to make available discounted voice and broadband service to qualifying residences/households in remote areas, in a manner similar to our Lifeline program. In this section, we propose to limit CAF support for remote areas to one subsidy per residence/household. We further propose that in order for an ETC to receive a subsidy for a residence/household (which subsidy will be used to provide that service to that residence/household at a discounted rate), the residence/household be located in a remote area, as

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State Joint Board on Universal Service, High-Cost Universal Service Support, CC Docket No. 96-45, WC Docket No. 05-337, Notice of Proposed Rulemaking, 20 FCC Rcd 19,731, 19,735-36, para 8 (2005).

²³¹³ See *supra* para. 534.

identified by the metric discussed in section XVII.K.2.a above. Finally, we seek comment on whether to require that residences/households meet a means test.

1256. *Eligibility Limited to One Per Residence/Household.* We propose to limit support to a single subsidy per residence/household in order to facilitate our statutory universal service obligations while preventing unnecessary expenditures for duplicative connections.²³¹⁴ A single fixed broadband connection should be sufficient for a single residence/household. We seek comment on this proposal.

1257. We also seek comment on how to implement this proposal in the context of CAF support for remote areas. First, we propose to adopt the use and definition of “residence” or “household” ultimately adopted by the Commission in connection with the Lifeline and Link Up Reform and Modernization NPRM.²³¹⁵ We seek comment on this proposal. We also seek comment on how best to interpret the one per residence/household restriction in light of current service offerings and in the context of situations that may pose unique circumstances.²³¹⁶ How should the Commission or Administrator determine that CAF support for remote areas is being provided in a manner consistent with any definitions of “household” or “residence” ultimately adopted? Should providers be able to rely on the representation of the person signing up for the discounted service?

1258. We seek comment on the relationship between CAF support for remote areas and the Lifeline program. Should a consumer’s decision to obtain services supported by the Remote Areas Fund affect or preclude their eligibility for Lifeline, or vice versa? What other issues must the Commission address in order to ensure that these programs are structured in a complementary fashion?

1259. *Remote Area.* We propose that CAF support for remote areas should be available only for service provided to residences/households located in extremely high-cost areas, consistent with the discussion in section XVII.K.2.a above. We seek comment on this proposal.

1260. *Limiting Support to New Subscribers.* It is likely that there are residences/households located in remote areas that are capable of and willing to pay for satellite voice and broadband services at current prices. These residences/households do not, by definition, require assistance in overcoming the barrier to affordability in remote areas. We therefore seek comment on whether it is appropriate to limit Remote Areas Fund support to new subscribers only. If so, how would such a restriction be implemented? Can an ETC determine whether a potential new subscriber is a current or past subscriber to itself or to another ETC? Should residences/households be considered “new customers” some period of time after cancelling service with an ETC? If so, how long a period is appropriate?

1261. *Means Test.* We seek comment on whether to use a means test to identify qualifying locations for which support can be collected in each eligible remote area. It would appear that using a means test for determining qualifying residences/households is particularly appropriate in supporting

²³¹⁴ *Lifeline and Link Up Reform and Modernization NPRM*, 26 FCC Rcd at 2805-10, paras. 106-125.

²³¹⁵ *Lifeline and Link Up Reform and Modernization NPRM*, 26 FCC Rcd at 2872-3, Appendix A (proposed 47 C.F.R. § 54.408); *Further Inquiry Into Four Issues in the Universal Service Lifeline/Link Up Reform and Modernization Proceeding*, WC Docket Nos. 03-109, 11-42, CC Docket No. 96-45, Public Notice, 26 FCC Rcd 11,098, 11,100-03 (Wireline Comp. Bureau 2011).

²³¹⁶ *Lifeline and Link Up Reform and Modernization NPRM*, 26 FCC Rcd at 2805-6, para. 109. In October 2009, the Wireline Bureau sought comment on how to apply the one-per-household rule to Lifeline support in the context of group living facilities, such as assisted-living centers, Tribal residences, and apartment buildings. See *Comment Sought on TracFone Request for Clarification of Universal Service Lifeline Program “One-Per- Household” Rule As Applied to Group Living Facilities*, WC Docket No. 03-109, Public Notice, 24 FCC Rcd 12788 (Wireline Comp. Bur. 2009); Letter from Mitchell F. Brecher, Counsel for TracFone, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 03-109 (filed July 17, 2009).

services in extremely high-cost, remote areas that may be most cost-effectively served by satellite technology. This is because such service is readily available over broad areas, but often at higher prices to the end user than common terrestrial broadband services. In addition, by limiting our support to locations that meet a means test we assure that we stretch the available funds as far as possible to support service to those that would not otherwise be able to afford it. We seek comment on whether an approach that provides a portable subsidy to only a subset of consumers in remote areas is consistent with the statutory principle that “[c]onsumers in all regions of the Nation, including low-income consumers . . . should have access to . . . advanced telecommunications and information services . . . at rates that are reasonably comparable to rates charged for similar services in urban areas.”²³¹⁷ We seek comment on these proposals, and on any alternatives that commenters may suggest.

1262. We seek comment on what standard we would use for such a means test. For instance, would it be appropriate to set a threshold means test for residences/households of 200 percent of the poverty level as established annually, based on residence/household size?²³¹⁸ That would, for example, provide support for a family of four that has income of \$44,700 or lower.²³¹⁹ What would be the relative advantages and disadvantages of setting a higher or lower level? Would it be appropriate to also specify other governmental programs that could serve as models or as proxies for a means test, as is done with the Commission’s low-income program?

1263. *Community Anchor Institutions and Small Businesses.* We seek comment on whether small businesses and/or community anchor institutions also should be eligible for the Remote Areas Fund. How would the proposals set forth in this Further Notice need to be modified to administer a Remote Areas Fund that includes small businesses? How should small businesses be defined? Would small businesses receive the same subsidy as residences/households, or a different subsidy? As we observed in the CAF Order, community anchor institutions in rural America often are located near the more densely populated area in a given county – the small town, the county seat, and so forth – which are less likely to be extremely high-cost areas and therefore may not require support.²³²⁰ If we are to provide support to community anchor institutions, how should that term be defined?

b. Setting the Amount of the Subsidy

1264. We seek comment on how to set the CAF support amount for remote areas for ETCs for voice and broadband services.

(i) Stand-alone Voice Service

1265. We seek comment on how to set the CAF support amount for remote areas for stand-alone voice service. One proposal would be to adopt rules consistent with those that establish the tiered Lifeline support amounts for voice telephony service.²³²¹ Would these support amounts be sufficient to

²³¹⁷ See 47 U.S.C. §254(b)(3).

²³¹⁸ For the Lifeline and Link Up programs, consumers in states without their own low-income programs must comply with eligibility criteria to qualify for low-income support. The Commission’s eligibility criteria include income at or below 135 percent of the federal poverty guidelines, or participation in one of the various income-based public-assistance programs, such as Medicaid, Food Stamps, Supplemental Security Income, Federal Public Housing Assistance, and the National School Lunch Program’s free lunch program. See 54 C.F.R. § 409(b), (c).

²³¹⁹ See Annual Update of the HHS Poverty Guidelines, 76 Fed. Reg. 3637-38 (Jan. 20, 2011).

²³²⁰ See *supra* para. 102.

²³²¹ 47 C.F.R. § 54.403. We note that the Commission has sought comment on whether there is a more appropriate framework for reimbursement than the current four-tier system. See *Lifeline and Link Up Reform and Modernization NPRM*, 26 FCC Rcd at 2845-49, paras. 245-51.

overcome the barrier to affordability for voice service faced by individuals in remote areas? Would a greater or lesser amount be more appropriate? If so, how would such an amount be calculated?

(ii) **Voice and Broadband Service**

1266. We seek comment on how to set the CAF support amount for remote areas for a bundle of voice and broadband (“voice-broadband”) service. We note that current satellite services tend to have significantly higher monthly prices to end-users than many terrestrial fixed broadband services, and frequently include substantial up-front equipment and installation costs.

1267. *Monthly Payments.* We seek comment on the appropriate support amount for monthly satellite voice-broadband service charges. One proposal would be to provide a monthly amount equal to the difference between the retail price of a “basic” satellite voice-broadband service and an appropriate reference price for reasonably comparable service in urban areas. We seek comment on this proposal. How would the appropriate reference price for satellite voice-broadband be calculated? How would the appropriate reference price for a “reasonably comparable” voice-broadband service in urban areas be calculated? What performance criteria should be applied when selecting a service or services from which to derive the price? Should a discount be applied to the price of services which are of lower quality (e.g., have higher latency or stricter capacity limits)? Could the survey of urban broadband rates the Bureaus have been authorized to conduct provide the necessary data?²³²² How should the presence or absence of mandatory contract terms or other terms and conditions that may differ be taken into account? Are there other data sources available that could be relied upon to determine one or both reference prices?

1268. What other methods could be used to establish the appropriate support amount? Proposals should be detailed and specific, and commenters should be mindful of the need to balance the goal of ensuring access to affordable broadband in remote areas with the need to operate within the budget established for CAF for remote areas and minimize opportunities for waste, fraud and abuse.

1269. *Installation and Equipment.* The cost of purchasing or leasing terminal equipment and installation necessary for satellite service to be initiated often are greater than for other services. We seek comment on how and whether Remote Areas Fund support should be allocated to defray these startup costs.

1270. We propose that subscribers be required to pay, or provide a deposit of, a meaningful amount to help ensure that subscribers have the means to pay for the services to which they subscribe and to provide an incentive to comply with any terms of their service agreements regarding use and return of equipment. What would be an appropriate payment or deposit amount?

1271. By extension, we propose that the subsidy for installation services and equipment sale or lease be the difference between the payment or deposit amount described in the preceding paragraph and the ETC’s routine charges for initiating service. We seek comment on whether this would result in an appropriate subsidy level. Should the Commission instead establish a fixed subsidy amount? If so, how should that subsidy amount be calculated? Should the subsidy be paid at the time service is initiated, or should smaller payments be made during the duration of the subscription? What other factors must be taken into account so as to ensure that the costs of installation and equipment do not serve as a barrier to affordable broadband service in remote areas while minimizing incentives for customer churn and opportunities for waste, fraud and abuse?

1272. *Satellite Service Availability.* As discussed above, we recognize that some of the most likely providers of service to remote areas are satellite providers. Are there issues relating to the nature of satellite service that could prevent potential subscribers from obtaining service? For example, WildBlue

²³²² See *supra* para. 114.

and HughesNet both require that subscribers have a clear view of the southern sky in order to obtain a signal.²³²³ How many potential subscribers in remote areas may not be able to obtain a signal due to the nature of their dwelling unit (e.g., a multi-unit dwelling), terrain surrounding their dwelling unit (e.g., proximity to mountains), heavy foliage, or other obstructions? To what extent can such issues be resolved by antenna masts or other solutions? Should the cost of resolving such issues be subsidized by CAF support for remote areas? If so, how would the amount of such subsidy be calculated?

c. Terms and Conditions of Service

1273. We note that both WildBlue and HughesNet require subscribers to enter into a 24-month contract as a condition of service, and impose an early termination fee (ETF) if service is terminated prior to the end of the contract term.²³²⁴ Should ETCs be permitted to impose such contract terms when consumers subscribe to services supported by CAF for remote areas? Are there other terms or conditions that should be prohibited or restricted in connection with the provision of supported services? For example, should an ETC be permitted to require subscribers to pay by credit card, or to pass a credit check before service is initiated?

d. Budget

1274. We seek comment on how to ensure that we stay within the annual Remote Areas Fund budget under a portable consumer subsidy structure. Should support be available on a “first come, first served” basis, or should some other method be used to identify which applicants receive support? If, in a given funding year, support expenditures begin to approach the budgeted amount, should the Commission tighten the eligibility criteria to reduce demand (e.g., by lowering the threshold established for a means test, if adopted)? If so, how? What other tools or techniques can the Commission use to ensure that demand for CAF for remote areas support does not outstrip the budgeted supply?

1275. We also seek comment on what the Commission should do if requests for reimbursement from the Remote Areas Fund are lower than the budget. If, in a given funding year, support expenditures do not reach the budgeted amount, should the Commission modify its eligibility criteria to allow additional residences/households in remote areas to obtain service supported by the Remote Areas Fund? If so, how?

4. Auction Approaches

1276. As alternatives to our proposals above, we could use one of several competitive bidding approaches to target the provision of CAF funding in extremely high-cost areas. Using an auction in which providers compete across areas for support from the Remote Areas Fund could enable us to identify those providers that would offer the services at least cost to the fund, so as to maximize the number of locations that could be served within the budget. More specifically, we seek comment on three auction-related alternatives. In the first, a per-subscribed location auction, bidders would compete for the opportunity to receive payments in exchange for providing services that meet the technical requirements described above, at a set discounted price, to qualifying locations in an area.²³²⁵ In the second, a coverage auction, rather than competing for a per-subscribed location subsidy based on specified performance and

²³²³ See WildBlue, Frequently Asked Questions, http://www.wildblue.com/aboutWildblue/qaa.jsp#4_4 (last visited Oct. 18, 2011); HughesNet, Frequently Asked Questions, Installation, <http://consumer.hughesnet.com/faqs.cfm> (last visited Oct. 18, 2011).

²³²⁴ See WildBlue, Legal – Customer Agreement, http://www.wildblue.com/legal/customer_agreement.jsp (last visited Oct. 18, 2011); HughesNet, Plans and Pricing, http://consumer.hughesnet.com/plans.cfm?WT.mc_id=05141PPChncom3 (last visited Oct. 18, 2011).

²³²⁵ Such qualifications might include, for example, a means test.

pricing requirements, bidders would compete for support in exchange for making service available at reasonably comparable rates to any requesting location within a geographic area. The third auction alternative, a combined auction, would take place in combination with the competitive bidding process in areas in which the incumbent LEC declines the state-level commitment. We would combine the budgets available for these purposes into a single competitive bidding process, relaxing the performance requirements applicable to supported providers of fixed service in order to increase the number of technologies service providers could use, and thereby increase competition in the auction.²³²⁶ If we use an auction framework, we would have to consider some additional questions regarding how to address aspects of the program that would be different under an auction approach than for our voucher proposal. Below we discuss each auction option in more detail and seek comment on relevant issues. Commenters advocating for auction options should discuss to what extent the choice of a particular auction approach should affect decisions about the general implementation issues discussed above in Section XVII.K.2, including definition of remote areas, provider qualifications, and public interest obligations.

1277. *Per-Subscribed Location Auction.* This competitive bidding alternative would have much in common with the portable consumer subsidy proposal we describe above, in that it would offer a subsidy based on service provided to qualifying locations.²³²⁷ In contrast, however, under an auction approach, the subsidies would not necessarily be available in all the areas identified as extremely high-cost, but only in those areas for which winning bids were accepted. Further, in an auction for per-location support, only the providers submitting the winning bids would be eligible to collect the subsidy payments to serve qualifying locations in the area. And under an auction approach, the subsidy amount would be determined based on bids in the auction, and would not be set by the Commission.

1278. In a per-subscriber location auction, the Commission would establish a benchmark price level for services meeting the performance criteria defined for voice and broadband in extremely high-cost areas. Bidders would then indicate in the auction a subsidy amount at which they would be willing to offer services meeting our specifications while charging consumers no more than the benchmark price, which would represent a discount off the otherwise available price. We seek comment on how we should establish this price, and how to adjust it over time. Many of the same considerations discussed above in Section XVII.K.3.b with respect to the portable consumer subsidy would apply to the per-subscriber-location auction, and we ask commenters to address these issues.

1279. With respect to the choice of areas for competitive bidding under this option, we seek comment on whether we should use a geographic area other than census blocks as a minimum geographic unit for bidding, and how that choice relates to whether and how we might provide for bidding on packages of areas.²³²⁸ In order to evaluate the effect of bids with respect to available funds, we would determine the number of qualifying locations in each eligible census block based on 2010 decennial census data (e.g., those locations meeting a required means test).

²³²⁶ In the discussion of the competitive bidding process in areas where incumbent LECs have declined a state-level commitment, we seek comment on an approach in which providers could offer different performance characteristics such as download and/or upload speeds, latency, and limits on monthly data usage, and the Commission would score such “quality” differences in evaluating bids. See *supra* para. 1204 and note 2279.

²³²⁷ Our second auction option does not involve per-location support, and so is significantly different from our voucher approach.

²³²⁸ Compare WildBlue et al., *Ex Parte* Notice, July 18, 2011 (satellite representatives “urged that support be distributed on the basis of small geographic units, such as census blocks”), with Rural Utilities Service, Satellite Awards, Broadband Initiatives Program, Fact Sheet at 2 (illustrating large regions with respect to which BIP satellite funding was granted) (available at <http://www.rurdev.usda.gov/supportdocuments/BIPSatelliteFactSheet10-20-10.pdf>).

1280. Under this auction option, we could design the auction to select one or possibly more than one provider that would be eligible to receive a subsidy amount to provide services in a given area, and we seek comment on these possible approaches. Enabling more than one provider to receive support could provide qualifying customers with the benefits of a choice of service providers. Selecting a single provider per area, however, could give the providers more certainty regarding potential customers, which may permit lower bids. We also ask commenters to consider whether picking one provider or two or more would have an effect on auction competition and the auction's ability to drive subsidy prices to efficient levels. In this regard, we ask commenters to indicate the likely impact on subsidy levels of picking one provider or two or more through an auction, as well as the concomitant effect on the number of locations that could be served within the budget.

1281. *Coverage Auction.* This competitive bidding option could be appropriate if we find that we need to spur significant new deployment (e.g., launching a new satellite or directing a dedicated spot beam to a particular area) to make voice and broadband services available in extremely high-cost areas. Thus, a coverage auction would have much in common with our proposals for competitive bidding for Mobility Fund Phase II and price cap areas in which a state-level commitment was not made in that it would offer support to service providers in exchange for making service available at reasonably comparable rates to any requesting location within a particular geographic area. Similar to the other proposed CAF auctions, requesting locations would not be subject to a means test, and support would not be tied to the number of subscribers a provider serves. As a threshold matter, we seek comment on whether a coverage auction would displace private investment, given existing and planned capacity and coverage that may be achieved without support. If adequate capacity and coverage is unlikely to be achieved absent support, we seek input on how to structure a competitive auction, given the nature of competition among satellite broadband providers and the possibility of competition from providers using other technological platforms, such as WISPs.

1282. As with our other competitive bidding proposals we seek comment on the appropriate geographic area to use as a minimum geographic unit for bidding, and how that choice relates to whether and how we might provide for bidding on packages of areas.²³²⁹ In order to evaluate the impact on available funds of bids made for different geographic areas we would determine the number of potential locations in each eligible census block based on 2010 decennial census data. We would anticipate that, in order to maximize the consumer benefits in such an auction, we would generally be supporting a single provider for a given geographic area. As discussed above, we would support more than one provider in an area only if doing so would maximize coverage.

1283. *Combined Auction.* This auction option would combine the budgets available for the post-state-level commitment competitive bidding process and for remote areas, relaxing the performance requirements applicable to providers of fixed services receiving CAF support in order to increase the number of technologies service providers could use. In such an auction, providers could offer different performance characteristics, such as download and/or upload speeds, latency, and limits on monthly data use, and the Commission would score such "quality" differences in evaluating bids. This would give the Commission the ability to make trade-offs between subsidizing a higher quality service to fewer customers versus subsidizing a lower quality for more customers. Additionally, such an approach should result in more competitive bidding and lower prices, by allowing more technologies to compete for funding (both for an area and across areas), thereby permitting the CAF budget to yield greater quality for a given coverage, expanded coverage, or some combination thereof. This could allow the auction to determine a more cost effective distribution of budgets for services that meet potentially different performance obligations, rather than having the Commission decide in advance how to distribute the

²³²⁹ This approach is similar to what we have done for Mobility Fund Phase I and proposed for other competitive bidding processes in this FNPRM.